

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, FEBRUARY 21, 2007**

**C-1     CALL TO ORDER / ROLL CALL**

The City Council Closed Session meeting of February 21, 2007, was called to order by Mayor Johnson at 5:30 p.m.

Present: Council Members – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, Deputy City Manager Krueger, Deputy City Attorney Magdich, Public Works Director Prima, and City Clerk Johl

**C-2     ANNOUNCEMENT OF CLOSED SESSION**

- a) Review of Council Appointees – City Manager and City Attorney – Pursuant to Government Code §54957
- b) Pursuant to Government Code §54956.9(c); Conference with Legal Counsel; Anticipated Litigation/Initiation of Litigation Regarding 516 ½ East Tokay Street, Lodi, CA (APN 047-323-09), Stephen and Christine Banks; Quiet Title to Street Easement; One Potential Case

**C-3     ADJOURN TO CLOSED SESSION**

At 5:30 p.m., Mayor Johnson adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:55 p.m.

**C-4     RETURN TO OPEN SESSION / DISCLOSURE OF ACTION**

At 7:00 p.m., Mayor Johnson reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), no action was taken.

In regard to Item C-2 (b), authorization was given to initiate a quiet title action against Stephen and Christine Banks for property located at 516 ½ East Tokay Street.

**A.     CALL TO ORDER / ROLL CALL**

The Regular City Council meeting of February 21, 2007, was called to order by Mayor Johnson at 7:00 p.m.

Present: Council Members – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

**B.     INVOCATION**

The invocation was given by Barbara Taylor representing the Lodi Police Chaplains.

**C.     PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Johnson.

**D.     AWARDS / PROCLAMATIONS / PRESENTATIONS**

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Library Services Director, Nancy Martinez, presented a report on and invited Council and the public to attend the Lodi Public Library's Centennial Reception on Sunday, February 25, 2007, at 5:30 p.m.

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E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Johnson, Mounce second, unanimously approved the following items hereinafter set forth **except those otherwise noted:**

- E-1 Claims were approved in the amount of \$7,162,819.76.
- E-2 The minutes of February 6, 2007 (Shirtsleeve Session), February 7, 2007 (Regular Meeting), and February 13, 2007 (Shirtsleeve Session) were approved as written.
- E-3 Adopted Resolution No. 2007-26 awarding the revised bid for the purchase of White Slough Water Pollution Control Facility telephone system replacement from AT&T (SBC), of Stockton, under the terms of the competitively-bid State of California CALNET contract in the amount of \$58,155.76, and appropriated funds in accordance with staff recommendation.
- E-4 "Adopt Resolution Awarding the Contract for Public Works Department Tree Trimming 2007 to West Coast Arborists, Inc., of Stockton (\$18,290)" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-5 "Adopt Resolution Authorizing the City Manager to Enter into Letters of Agreement between the City of Lodi and the Following Businesses for the Sale of Designated Municipal Electric Distribution Facilities: Lodi Iron Works (\$39,022.65) and CertainTeed Corporation (\$42,312.05)" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-6 Affirmed protest of 40-year time extension to East Bay Municipal Utility District Mokelumne River Permit.
- E-7 Set public hearing for March 7, 2007, to consider and approve community input and proposals for uses of the City's 2007-08 Federal allocation of Community Development Block Grant and HOME Program funds and the reallocation of available funds from previous program years.
- E-8 Set public hearing for March 21, 2007, to consider resolution approving new rates for solid waste collection.
- E-9 Set public hearing for March 21, 2007, to consider resolution establishing Area of Benefit and Reimbursable Costs for Lower Sacramento Road (Kettleman Lane to Harney Lane) improvements.
- E-10 Adopted the following resolutions regarding the annexation of Guild Avenue Industrial Zone 13 to the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1:
  - Resolution No. 2007-27 of preliminary approval of the Engineer's Report regarding the proposed annexation of territory into the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 and levy and collection of assessments for fiscal year 2007-08;
  - Resolution No. 2007-28 declaring intention to annex territory into Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 and to provide for the levy and collection of assessments in such annexation, setting April 4, 2007, at 7 p.m., as the time and place for the public hearing thereon and ordering the initiation of assessment ballot procedures; and
  - Resolution No. 2007-29 initiating proceedings for the annexation of territory into the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 and the levy and collection of assessments for certain zones for fiscal year 2007-08.

- E-11 Set public hearing for April 18, 2007, to consider adoption of resolution establishing Public Works Department engineering fees for various development-related engineering services; establishing standard unit price schedule for calculation of engineering fees and improvement security; and establishing requirement for warranty security for public improvements.
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ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- E-4 "Adopt Resolution Awarding the Contract for Public Works Department Tree Trimming 2007 to West Coast Arborists, Inc., of Stockton (\$18,290)"

This item was pulled for further discussion by Council Member Hansen.

In response to Council Member Hansen, Public Works Director Prima stated the contract does address mistletoe removal for the trees that are covered by the contract. Mr. Prima stated they can address mistletoe removal for other trees through the savings from this contract. He stated the lower price was a result of trimming trees in a geographical grouping.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Johnson second, unanimously adopted Resolution No. 2007-30 awarding the contract for Public Works Department Tree Trimming 2007 to West Coast Arborists, Inc., of Stockton, in the amount of \$18,290.

- E-5 "Adopt Resolution Authorizing the City Manager to Enter into Letters of Agreement between the City of Lodi and the Following Businesses for the Sale of Designated Municipal Electric Distribution Facilities: Lodi Iron Works (\$39,022.65) and CertainTeed Corporation (\$42,312.05)"

Council Member Hitchcock pulled this item for further discussion and a presentation.

Electric Utility Director Morrow provided a brief presentation regarding the item. Specific topics of discussion included types of services including secondary and primary, low-voltage usage with secondary service, high-voltage usage with primary service, usage by larger industrial customers, specific requirements of the two customers requesting transfer of service, responsibility of maintaining equipment including transformers, benefit of a more economical rate tier, rate tier structure, and history of accounts for the two customers.

In response to Council Member Hitchcock, Mr. Morrow stated there is no impact on the rate structure from other customers who may have similar requests because the number of other customers who may be able to take advantage of a similar transfer is so few.

In response to Council Member Hitchcock, Mr. Morrow stated the sale is on an "as is" basis and the customers will be responsible for meter and cable equipment. He stated both customers have done their due diligence in inspecting the existing equipment and facilities available on each property.

In response to Council Member Hitchcock, Mr. Morrow stated only one agreement references underground cable because only one property has such facilities.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously adopted Resolution No. 2007-31 authorizing the City Manager to enter into letters of agreement between the City of Lodi and the following businesses for the sale of designated municipal electric distribution facilities: Lodi Iron Works in the amount of \$39,022.65 and CertainTeed Corporation in the amount of \$42,312.05.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Mayor Pro Tempore Mounce complimented staff on its efforts regarding transparency in finances. She requested a Shirtsleeve Session explaining cash versus accrual accounting methodology.
- Council Member Hansen reported on his attendance at the Northern California Power Agency meeting, the Committee's budgeting efforts to deal with upcoming political issues including climate change, global warming, and Co2 emissions, and citizen inquiries regarding basketball floors, insurance requirements, and access to fields for practice purposes.
- Council Member Hitchcock stated she would also like a Shirtsleeve Session regarding cash versus accrual accounting.
- Mayor Johnson recommended the City submit applications for federal assistance through Congressman McNerney's office.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King stated he will meet with staff to provide more information regarding accounting as requested. Mr. King also provided an overview of the general accounting standard practices (GASB) requirements as it relates to deferred appreciation. Mr. King stated coaches and leagues who are not in the City's structure may rent fields for practice. He also stated that staff will research the inquiry regarding insurance requirements.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider resolution adopting 2006-07 Federal Program of Transit Projects Lodi Urbanized Area.

City Manager King briefly introduced the subject matter.

Transportation Manager Tiffani Fink provided a presentation of the federal program for transit projects in the Lodi urbanized area. Specific topics of discussion included the annual steps to receive the state and federal portions of funds; project items including operations, facilities, and bus shelters; the city of Galt's efforts regarding the same; and the required paperwork.

In response to Mayor Johnson, Ms. Fink stated City staff is working closely with Galt staff and have reached a tentative agreement on grant distribution. She also provided an overview of the process by which Lodi and Galt, jointly, must apply for and obtain federal funding for transit projects. Ms. Fink stated the numbers amount to approximately \$993,000 for Lodi and \$300,000 for Galt. City Manager King stated there is some controversy as to the grouping of Lodi and Galt into a joint geographical area for grant purposes. He stated the best scenario would be to have Lodi as its own applicant, but there may be a danger of being united with Stockton. Mr. Prima stated the tentative agreement will also carry the City through the next census.

In response to Council Member Hitchcock, Mr. Prima stated, although fundamentally the money is supposed to be split according to projects, the percentage split is approximately 80/20.

Council Member Hansen recommended leaving the status quo so that the City is not lumped together with Stockton to receive federal funding.

Hearing Opened to the Public

None

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously adopted Resolution No. 2007-32 adopting the 2006-07 Federal Program of Transit Projects Lodi Urbanized Area.

- I-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider the following:

- a) Certify the Lodi Annexation Environmental Impact Report for the Westside Project; and
- b) Approve the Westside Development Project, which includes an annexation, pre-zoning, Development Agreement, amendment to the Bicycle Transportation Master Plan, and an amendment to the Westside Facilities Master Plan to incorporate 151 acres into the City of Lodi to allow construction of 750 dwelling units, 3 neighborhood/community parks, and a public elementary school at 351 East Sargent Road, 70 East Sargent Road, 212 East Sargent Road, and 402 East Sargent Road.

*NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31*

NOTE: Due to a potential conflict of interest related to the location of their homes to the vicinity of the proposed project, Council Members Hansen and Hitchcock abstained from discussion and voting on this matter and vacated their seats at the dais.

City Manager King provided an overview of the appearance of a conflict of interest. He also stated the applicant was requesting a hearing on March 21, 2007, if the appraisals were received. City Attorney Schwabauer stated the only remaining piece is the appraisal, which would show whether or not a conflict exists.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Katzakian second, continued the subject public hearing until such date as the information regarding the appraisal is available. The motion carried by the following vote:

Ayes: Council Members – Katzakian, Mounce, and Mayor Johnson  
Noes: Council Members – None  
Absent: Council Members – None  
Abstain: Council Members – Hansen and Hitchcock

NOTE: Council Members Hansen and Hitchcock returned to their seats at the dais.

J. COMMUNICATIONS

- J-1 Claims Filed Against the City of Lodi – None

- J-2 The following postings/appointments were made:

- a) The City Council, on motion of Mayor Pro Tempore Mounce, Johnson second, unanimously made the following appointments:

Recreation Commission

Larry Long	Term to expire December 31, 2008
Ken Sasaki	Term to expire December 31, 2010
Ed Wall, Jr.	Term to expire December 31, 2010
Barbara Wardrobe-Fox	Term to expire December 31, 2010

Site Plan and Architectural Review Committee

Keith Selleseth	Term to expire January 1, 2011
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- b) The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously directed the City Clerk to post for the following vacancies:

Animal Shelter Task Force

Hazel Jackson Unspecified term limit

Lodi Arts Commission

Rick Buchler Term to expire July 1, 2008

Lodi Improvement Committee

Robina Asghar Term to expire March 1, 2008

Abel Miranda Term to expire March 1, 2008

J-3 Miscellaneous – None

K. REGULAR CALENDAR

- K-1 "Discuss and Provide Direction on Future Development of Roget Park Located at 2229 Tienda Drive"

City Manager King provided a brief overview of the topic and historical consideration of the proposed Roget Park.

Public Works Director Prima provided a PowerPoint presentation (filed) regarding the site's geographical locations, options for park and lot development, process associated with potential requests for proposals, developer options with a joint venture, and goals for land use for surrounding areas.

In response to Council Member Hansen, City Manager King stated the hope was that a developer would cover the capital costs of the park while providing some additional funds for ongoing maintenance, thereby reducing the responsibility on the City's side. He requested the Council provide ideas, including housing suggestions, which could be written into the proposals for developers. Mr. Prima stated multiple proposals will allow for creativity and options.

In response to Council Member Hitchcock, City Attorney Schwabauer provided an overview of the provisions of the law associated with the sale of the surplus property and, more specifically, park land. Mr. Schwabauer discussed specific laws governing the sale of property declared as surplus, the process by which it is declared so, and the exception for park property.

Discussion ensued between Council Member Hitchcock, City Attorney Schwabauer, and City Manager King regarding the application and intent of the public purpose exception.

In response to Council Member Hitchcock, City Attorney Schwabauer stated the matter does not require a 4/5 vote.

In response to Mayor Pro Tempore Mounce, Mr. Prima stated the proposed park for Option 2 does not include the facilities, which were a part of the original 2001 design.

In response to Council Member Katzakian, City Manager King stated it might be a good idea to have some restrictions and a limited appraisal to assess the market response for restrictions to determine a budget amount for a joint venture. Public Works Director Prima stated the proposals can be rejected and the City can start again.

Discussion ensued between Mayor Johnson, Council Member Hansen, and Public Works Director Prima regarding developer funded park improvements and a joint venture, whereby the City has land and the developer gets property to sell.

PUBLIC COMMENTS:

- Gordon Roget spoke in favor of full park development, with a possibility of some residential development as illustrated in Concept E, if the parcel for sale ends where Target ends.

In response to Council Member Katzakian, Mr. Prima stated the street dissects the parcel creating residential lots on both sides.

Mayor Pro Tempore Mounce thanked the Roget Family for the generous donation.

- Randy Snider spoke in favor of full park development as presented in Option 1 of the plan presented in 2001. Mr. Snider suggested a phased option to build the park or a vanilla park as an alternative.
- Robert Blincoe spoke in favor of full park development as presented in Option 1 of the plan presented in 2001 and suggested a vanilla park as an alternative.
- Gordon Roget suggested the logical time to build a street is when there is residential development to the west.

Discussion ensued between Council Member Hansen, Mayor Johnson, and City Manager King regarding sufficiency of park impact fees to build Roget Park and other parks, fees for new development, prioritizing needs, and general park improvements for various parks in the City. Mr. King stated as of June 30, 2006, there is approximately \$2.2 million in park impact fees and the park improvement line items total over \$47 million. He stated \$8 million was secured for DeBenedetti Park.

In response to Council Member Hitchcock, City Manager King stated Roget Park is on the 2005 list; although, the park impact fee may not include Roget Park because the land was donated prior. Council Member Hitchcock suggested going with Option 2 while creating visibility for the proposed park.

RECESS

At 9:00 p.m., Mayor Johnson called for a recess, and the City Council meeting reconvened at 9:10 p.m.

K. REGULAR CALENDAR (Continued)

K-1 Discussion ensued between the City Council regarding Concept D, a compromise (Cont'd.) regarding concerns for park visibility and backing up to the park, developer options, owner-occupied senior housing, residential input, and multiple options for developer proposals.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Hansen second, unanimously directed staff to move forward with Concept D, with the exception of blending Concept B by removing three lots for park development instead of residential development, with an Option 2 approach for the other land to allow for multiple housing options to be presented by potential developers.

K-2 "Receive List of the Major Development Projects in North Stockton from the City of Stockton"

Mayor Pro Tempore Mounce thanked staff for bringing the matter back for Council consideration.

Community Development Director Hatch provided a brief presentation regarding the city of Stockton's planned development for the area north of Eight Mile Road. Mr. Hatch reviewed a list and map of the proposed 33,000 homes through various applications stating build out is approximately seven to ten years out.

In response to Council Member Hansen, Mr. Hatch stated build out for the new General Plan is in excess of 20 years, while 7 to 10 years is the anticipated build out for what is already on the map.

In response to Council Member Hansen, City Manager King stated he learned that the I-205 and I-5 projects were not included at the Transportation Commission meeting.

In response to Council Member Hitchcock, Mr. Hatch stated the anticipated growth does amount to approximately 95,000 people using the 2.9 per unit formula.

In response to Council Member Hitchcock, Mr. Hatch stated Mr. Herum is working with the new supervisor and County staff to develop a zoning overlay and requests to assist or participate in the process were declined. He stated the group has until roughly June to accomplish its goals with the County. City Manager King stated he was advised approximately two weeks ago that the draft concept ordinance would be available for review in the near future and staff will follow up regarding the same.

MOTION / VOTE:

There was no Council action taken on this matter.

- K-3 “Adopt Resolution Adopting Local Goals and Policies, Declaring Intention to Establish Community Facilities District No. 2007-1 (Public Services) and to Levy a Special Tax Therein, and Setting Public Hearing for April 4, 2007, to Receive Public Input and to Act to Form the District”

City Manager King briefly introduced the subject matter.

City Engineer Wally Sandelin provided a PowerPoint presentation (filed) regarding the proposed community facilities district (CFD). Specific topics of discussion included the boundary map, Reynolds Ranch obligations, goals and policies, services to be funded, rate and method of apportionment, and proposed resolution adoption.

In response to Council Member Hansen, City Manager King stated Southwest Gateway is also obligated to vote in favor of the proposed CFD, but it has not yet completed the annexation process. Mr. King and Mr. Hatch provided an overview of the process for the same.

In response to Council Member Hitchcock, City Manager King explained that the 600 figure involved methodology, which took into account the cost of service, population, density, and a gap adjustment based on the revenue stream for new development.

In response to Council Member Hitchcock, Mr. Hatch stated the adjusted fees, based on the Consumer Price Index or 5%, help to make up the property tax shortfall.

In response to Mayor Johnson, the consultant stated there is generally no benefit to creating multiple districts unless it is infrastructure related.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Hitchcock second, unanimously adopted Resolution No. 2007-33 adopting local goals and policies, declaring intention to establish Community Facilities District No. 2007-1 (Public Services) and to levy a special tax therein, and setting public hearing for April 4, 2007, to receive public input and to act to form the district.



- K-4 "Establish an Ad Hoc Council Committee for the Purpose of Reviewing the Railroad Avenue Affordable Housing Project Proposals and Select Two Council Members to Serve on that Committee"

City Manager King briefly introduced the subject matter.

In response to Mayor Pro Tempore Mounce, Community Improvement Manager Joseph Wood stated the Ad Hoc Committee will consist of staff and Council Members at this time with public participation through the hearing process.

PUBLIC COMMENTS:

- Eileen St. Yves spoke in favor of a member of the public being appointed to the committee.
- Virginia Snyder spoke in favor of a member of the public being appointed to the committee.

Discussion ensued between the City Council, Mr. Hatch, Mr. Wood, City Manager King, and City Clerk Juhl regarding the process associated with appointing a member of the community to an ad hoc committee for the purpose of evaluating proposals.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, unanimously established an Ad Hoc Council Committee for the purpose of reviewing the Railroad Avenue Affordable Housing Project proposals, selected Council Member Hansen and Mayor Pro Tempore Mounce to serve on the Committee, and further directed that the Committee include a representative from the Planning Commission and Lodi Improvement Committee.

- K-5 "Consider Request to San Joaquin Council of Governments to Appoint a Member of the Lodi City Council to the San Joaquin Regional Rail Commission"

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Hitchcock second, unanimously adopted Resolution No. 2007-34 requesting appointment by the San Joaquin Council of Governments (SJCOG) of Mayor Johnson to the San Joaquin Regional Rail Commission and further directed the City Clerk to send a letter, along with the resolution, to SJCOG.

- K-6 "Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel (\$217,628.30)"

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously approved expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$217,628.30, as detailed below:

Folger Levin & Kahn - Invoices Distribution				
Matter No.	Invoice No.	Date	Description	Water Acct. Amount
8002	100000	12/31/2006	People v. M&P Investments	\$ 59,659.92
				-3,600.00
8003	100001	12/31/2006	Hartford Insurance Coverage Litigation	\$133,124.41
				-1,623.50
8008	99998	12/31/2006	City of Lodi v. Envision Law Group	\$ 14,594.15
	14200	12/31/2006	PES Environmental-Keith O'Brien	\$ 648.75
	6600	12/31/2006	West Environmental/Peter Krasnoff	\$ 7,815.00
<b>Total</b>				<b>\$210,618.73</b>

**Kronick Moskovitz Tiedemann & Girard - Invoices Distribution**

Matter No.	Invoice No.	Date	Description	100351.7323
11233.027	230472	01/25/2007	Citizens for Open Government v. City of Lodi	\$ 171.25
11233.029	230472	01/25/2007	AT&T v. City of Lodi	\$ 510.60
			Total	\$ <b>681.85</b>

**MISCELLANEOUS**

Invoice No.	Date	Description	Water Account Amount
06SF1025148	10/25/2006	Document Services Unlimited	\$ 2,594.07
06SF111481	11/14/2006	Document Services Unlimited	\$ 3,212.38
		Divide Cost ½ City / ½ Insurers	\$ 5,806.45
		<b>Total Amount Due from City of Lodi</b>	<b>\$ 2,903.22</b>
2089	08/28/2006	Benchmark Video	\$ <b>2,547.25</b>
68119ESF	01/11/2007	Esquire Deposition Services	\$ <b>463.75</b>
325473	01/18/2007	Barkley Court Reporters	\$ <b>413.50</b>

L. ORDINANCES

None.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:11 p.m.

ATTEST:

Randi Johl  
City Clerk